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1st OA dated 9/30/06
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REMARKS

Claim 19 is canceled hereby. Claims 1, 2, 6, 7, 11-18, 20-38, 42, 47, 49-51, 53 and 59 are amended. Claims 1-7, 9-18, 20-53 and 59 are pending. The amendments place the application in condition for allowance and/or better form for appeal and should thus be entered after final rejection. Entry of the amendments, further examination of the application, as amended, and reconsideration of the rejections are respectfully requested.

Claims 1, 53 and 59 are amended to specify a polymerization pressure from above 0 kPa to correspond with the disclosure in paragraph [0148]. No new matter or new issues are presented thereby, and it is believed that the Section 112, first paragraph rejection is thus overcome.

Claim 59 is amended to specify a contacting step as recited in original claim 1, for example. No new matter or new issues are presented thereby, and it is believed that the Section 112, second paragraph rejection is thus overcome.

The outstanding prior art rejections are applied only against claims 1-18, 20-21, 26-27, 33-53 and 59, in view of Halasa (claims 1-4, 6, 11, 26-27, 33, 35-43, 49-50, 53 and 59), Clough (claims 1-7, 9-17, 26-27, 33-51, 53 and 59), Falchi (claims 1-5, 9-10, 14-18, 26-27, 35, 37, 49-50, 53 and 59), and Calfee (claims 1-7, 9-10, 12-13, 20-21, 26-27, 33, 35-41, 47, 51, 53 and 59). No prior art rejections were made against claims 19 and 22-25 specifying certain Lewis acids, or against claims 28-32 specifying certain initiators.

Claim 19, now canceled, has been incorporated into Claim 1. The features of Claim 1 (as previously amended and including the lower pressure limit above 0 kPa) have been incorporated into claims 22-25 and 28-32, which are now written as independent claims. The amendments to claims 28 – 31 also correct a minor grammatical error. The feature of original claim 28 has also been incorporated into independent claim 53; and of claim 32 into independent claim 59. All other claims have been amended to depend from or through

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independent claim 28, except claims 9 and 10 which still depend from claim 1. It is thus believed that the prior art rejections are overcome without raising any new issues.

The only other issue in the case is the provisional double patenting rejection. Initially, it is noted a terminal disclaimer has already been filed of record in US 10/538,984 with respect to the present application. A terminal disclaimer is filed herewith in respect of 10/539,015, which has now issued as US 7,214,750.

The other cited co-pending application (10/539,013) and the present application are both national stage entries of international applications with the same international filing date, which is considered to be the US filing date for all purposes. 35 USC 363; MPEP 1810. Since the applications have the same effective filing date, according to MPEP 804 I.B.1, "[T]he examiner should determine which application claims the base invention and which application claims the improvement (added limitations). The ODP rejection in the base application can be withdrawn without a terminal disclaimer."

The cited co-pending '013 application has claims which all contain features in addition to those specified in the claims herein, e.g., a polymerization process wherein the polymerization medium is evaporated during the polymerization of the monomers with a catalyst system and an HFC diluent, and therefore can be considered as the improvement application for the purpose of applying any provisional double patenting rejecting. Therefore, it is appropriate to withdraw the double patenting rejection in this case and, if appropriate, impose it in the cited co-pending '013 application.

In view of the above amendments and remarks it is respectfully submitted that this application is in condition for allowance. Prompt notice of such is respectfully solicited.

Please charge any deficiency in fees or credit any overpayments during the entire pendency of this case to Deposit Account No. 05-1712.

